

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

ALBERT W. CALLWOOD, MARIA DE LOS A.)	
CALLWOOD,)	
)	
Plaintiff,)	
)	Civil No. 2018-31
v.)	
)	
ALBERT BRYAN, ¹ GOVERNOR; NELSON PETTY,)	
PUBLIC WORKS COMMISSIONER; GABRIEL)	
ROMAN—CUSTOM BUILDERS; KEON RAWLINGS—)	
SURVEYOR; GOVERNMENT OF THE UNITED)	
STATES VIRGIN ISLANDS)	
)	
Defendants.)	
)	

ATTORNEYS:

Albert W. Callwood
Maria De Los A. Callwood
St. Thomas, USVI
Pro se plaintiffs,

ORDER

GÓMEZ, J.

Before the Court is the complaint of Albert Callwood and Maria Callwood ("the Callwoods").

On May 29, 2018, the Callwoods initiated this action by filing a complaint in this Court.² Though the precise nature of

¹ Albert Bryan became Governor of the Virgin Islands in January of 2019. Pursuant to Federal Rule of Civil Procedure 25, the caption has been changed to reflect the change in governor.

² The Callwoods filed proofs of service for all defendants on June 13, 2018, indicating that each defendant was served on May 29, 2018. None of the defendants have answered or filed a motion under Federal Rule of Civil Procedure 12(b), (e), or (f). On November 26, 2018, and March 5, 2019, the

the Callwoods' claim is unclear, the Callwoods appear to claim that a governmental construction project on or near their property constitutes a taking of their property.

The Court has previously held:

The Virgin Islands eminent domain statutes provide a complete and exclusive procedure to govern all condemnations for public purposes in the territory. See 28 V.I.C. §§ 411-422. These statutory procedures protect the rights of property owners and guarantee the constitutional safeguards to which owners are entitled. They provide the opportunity for the Callwoods to voice their core objection - that this taking is not, in fact, for public use.

Such proceedings are ordinarily a function of the Virgin Islands Superior Court. Indeed, the Superior Court's exercise of this function is, in the first instance, exclusive. See *Brown v. Francis*, 75 F.3d 860 (3d Cir. 1996) (holding that the District Court erred when it asserted jurisdiction over an eminent domain case removed from the Territorial Court).

Callwood v. Gov't of the Virgin Islands, 2007-cv-104, ECF No. 18 at 4-5 (D.V.I. Feb. 4, 2011); see also *Callwood v. Gov't of the*

Callwoods filed documents purporting to be amended complaints. The Callwoods did not seek leave from the Court to amend their pleadings. Accordingly, neither of those pleadings are properly before the Court. See Fed. R. Civ. P. 15(a)(1)-(2); see also *Gagliardi v. Verizon Pennsylvania Inc.*, 357 Fed. App'x 413, 414 (3d Cir. 2009) ("Shortly after Trans Union removed the case to federal court and answered the complaint, Gagliardi attempted to amend the complaint. That attempt, styled as his "First Amended Complaint," was unsuccessful because he did not seek leave to amend, as required by Fed. R. Civ. P. 15(a)(2).").

Virgin Islands, 2014-cv-08, 2016 WL 1069066, at *1 (D.V.I. Mar. 17, 2016) (“The Virgin Islands eminent domain statutes provide a complete and exclusive procedure to govern all condemnations for public purposes in the territory. These statutory procedures protect the rights of property owners and guarantee the constitutional safeguards to which owners are entitled.” (quoting *Callwood*, 2007-cv-104, ECF No. 18 at 4-5)).

The premises having been considered, it is hereby

ORDERED that not later than April 25, 2019, the Callwoods shall submit briefs, with references to the appropriate authorities, addressing whether this matter should be dismissed for want of subject-matter jurisdiction.

s_____
Curtis V. Gómez
District Judge